

58 CSR 50

This legislative rule is filed for technical purposes

by the

Division of Natural Resources Law Enforcement Section

All changes are shown by strike-throughs for deleted
language and underlined for new language

August 1, 1995

TECHNICAL CHANGES TO

TITLE 58

DIVISION OF NATURAL RESOURCES
LEGISLATIVE RULES

"BUREAU OF COMMERCE" was added to the title of this rule. In addition, the following technical changes were made:

58 CSR 50 - Hunting or Fishing Outfitters and Guides

1. Changed the word "Department" to read "Division" throughout the rule, except in subsection 1.5.
2. After the word "his" added "/her" throughout the rule.

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TITLE 58
LEGISLATIVE RULE
BUREAU OF COMMERCE
~~DEPARTMENT~~ DIVISION OF NATURAL RESOURCES

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

SERIES 50 11
HUNTING OR FISHING OUTFITTERS AND GUIDES

~~§58-50~~ 11-1. General.

1.1. Scope. -- The purpose of these regulations is to provide for the regulation of commercial outfitter and guide services and to assure safe operations.

1.2. Authority. -- W. Va. Code §20-1-7(30) and §20-2-23

1.3. Filing Date. -- April 1, 1988

1.4. Effective Date. -- April 1, 1988

1.5. Promulgation history. These regulations supercede West Virginia Administration Regulations, Department of Natural Resources, Series XI filed on December 30, 1982 and effective on January 1, 1983.

~~§58-50~~ 11-2. Definitions.

2.1. "Outfitter" or "licensee" means any person who, operating from any temporary or permanent camp, private or public lodge, or private or incorporated home situated within this state, provides for monetary profit or gain, saddle or pack animals or other animals, vehicles, boats, conveyances or equipment, or guide services for any person to hunt game or wild animals, to hunt game or wild birds, to fish, or to go boating within the state. The term outfitter or licensee shall not include, however, any person who occasionally for accommodation or favor rather than profit or gain, rents equipment to hunters, fishermen or others as a service incidental to his/her principal occupation or business without advertising outfitter or guide services or holding out to the public his/her offering of such services.

2.2. All other terms shall have the meaning prescribed in W. Va. Code §20-1-2.

~~§58-50~~ 11-3. Outfitters License.

3.1. License required. An outfitter must obtain a license from the director prior to the commencement of services in the State.

3.2. Compliance with license. An outfitter issued a license by the director must comply with the terms and conditions of that

license.

3.3. License in possession. Each outfitter shall carry a copy of his/her license when conducting outfitter services. If the outfitter is a corporation, partnership, or other legal entity, then such copy will be carried by the representative of the outfitter who is present and designated in-charge during the performance of the outfitter services.

3.4. Bonding and insurance. Before any outfitting services are offered or rendered, each outfitter must execute a surety bond in the penal sum of one thousand dollars (\$1,000) payable to the State of West Virginia and must hold valid public liability insurance for which the minimum acceptable coverage shall be \$300,000 per occurrence for bodily injury and \$25,000 per occurrence and \$25,000 aggregate for property damage. The licensee shall provide the director with a copy of the required insurance policy or appropriate certification by the insurer that the required insurance coverage is in effect.

3.5. Application. An outfitter seeking a license shall provide the director with the information specified on the Department's Division's application and any additional information that the director deems necessary for consideration of such application. Any change in that information must be reported by the licensee to the director within thirty (30) days of such change. The applicant may in his or her application elect to be designated as an outfitter or a guide.

3.6. Records. Licensees shall keep a current record or file containing the name, address, age, and residency of all persons who have utilized their services. This record shall be kept for a period of two (2) years and shall be made available to the director upon request.

3.7. Nontransferability. A license is nontransferable and is valid only for the calendar year designated therein.

3.8. Posted lands. A license confers no authority to trespass; written permission must be obtained from the landowner, lessee, or tenant of any fenced or posted lands before entering same.

3.9. National forest lands. An outfitters license shall not be valid on National Forest lands within this state unless written permission is obtained from the Supervisor of such National Forest lands. Such permission must be signed and approved by the Department Division of Natural Resources.

3.10. Bear hunts. In accordance with the provisions of W. Va. Code §20-22-22a, an outfitters license does not permit the holder thereof to organize for commercial purposes or to professionally outfit a bear hunt or to give or receive any consideration

whatsoever or any donation in money, goods, or services in connection with a bear hunt.

~~§58-50~~ 11-4. Hunting And Fishing Trips.

4.1. Equipment. All vehicles, boats, conveyances, and equipment provided or used by an outfitter shall be maintained in a safe, operable condition.

4.2. First aid. Each outfitter, or representative of the outfitter actually conducting the service, shall have a current standard first aid training certificate issued by the American Red Cross or equivalent.

4.3. Hunting trips. All trips to hunt game or wild animals or game or wild birds or both must comply with current West Virginia hunting regulations. The licensee and all guests must have the appropriate hunting licenses and stamps on such trips.

4.4. Fishing trips. All fishing trips must comply with current West Virginia fishing regulations. The licensee and all guests must have the appropriate fishing licenses and stamps on such trips.

~~§58-50~~ 11-5. Accident Reports.

5.1. Injury report. If an accident which requires medical treatment occurs during the performance of a licensee's services, the licensee must file a report with the director within five (5) days after the accident. This injury report shall include the name, address, and age of the injured person; the nature of the injury; and the time, place, and circumstances of the accident.

5.2. Property damage report. If an accident occurs during the performance of licensee services which results in non-vehicular property damage in excess of five hundred dollars (\$500), the licensee must file a report with the director within five (5) days after the accident. This property damage report shall include the name of the owner of the property; an estimate of the amount of the loss; the time and location of the event causing the damage; and a description of the accident.

~~§58-50~~ 11-6. Enforcement And Penalties.

6.1. Penalty for license violation. An outfitter who violates the terms and condition of his/her license shall be subject to the penalties prescribed in W. Va. Code §20-7-9.

6.2. Penalty for failure to obtain a license. An outfitter who does not obtain a license shall be subject to the penalties prescribed in W. Va. Code §20-2-26.

6.3. Modification, suspension, or revocation of license. If the director determines that a pattern of violations of any requirement of these regulations or any term or condition of a license exists or has existed as a result of the licensee's lack of reasonable care or diligence, or that such violations are willfully caused by the licensee, the director shall immediately issue an order directing the licensee to show cause why the license should not be modified, suspended, or revoked and giving the licensee thirty (30) days in which to request a hearing subject to the provisions of Section 7 of these regulations. Within sixty (60) days following such hearing, the director shall issue and furnish to the licensee a written decision, and the reasons therefore, concerning the modification, suspension, or revocation of the license. Upon a licensee's failure to show cause why the license should not be modified, suspended, or revoked, the director may modify, suspend, or revoke the license, forfeit the licensee's bond posted under W. Va. Code §20-2-26, and give notice to the Attorney General of the State to seek collection of the forfeiture without delay.

6.4. License modification, suspension, and revocation procedures shall be governed by the provisions of W. Va. Code §29A-5 unless otherwise specified in these regulations.

~~§58-50~~ 11-7. Appeals.

7.1. The terms and conditions of a license are appealable under the provisions of W. Va. Code §29A-5.